

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DONG YUAN, et al.,

Plaintiffs,

-against-

& HAIR LOUNGE INC., et al.,

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 12/20/2019

18-CV-11905 (AT) (BCM)

ORDER

BARBARA MOSES, United States Magistrate Judge.

The Court having granted plaintiffs' conditional collective certification motion pursuant to 29 U.S.C. § 216(b) (Dkt. No. 70), and having read and considered the proposed Notice of 29 U.S.C. § 216(b) Collective Action (Notice) along with the attached Consent Form (Dkt. No. 72-1), it is hereby ORDERED that:

1. The parties' Notice and Consent Form is APPROVED in the form attached hereto.
2. During a telephone conference with chambers on December 20, 2019, defendants objected to the provision of the Notice allowing opt-in plaintiffs to return the Consent Form by email. The Court discerns no basis for that objection.
3. No later than **January 6, 2020**, plaintiffs' counsel shall transmit the Notice and Consent Form, in English and Chinese, to all hair designers and hair salon assistants, employed by defendants on or after December 21, 2015, by:
 - a. First class mail to those potential opt-in plaintiffs whose mailing address is known; and
 - b. Email to those potential opt-in plaintiffs whose email address is known.

Dated: New York, New York
December 20, 2019

SO ORDERED.



BARBARA MOSES
United States Magistrate Judge

TROY LAW PLLC

John Troy, Esq.

41-25 Kissena Boulevard, Suite 103

Flushing, NY 11355

Tel: (718) 762-1324

Attorney for the Plaintiffs

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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DONG YUAN and XUANHAO XU,

Individually and on Behalf of All Other Similarly
Situated Employees,

Plaintiff(s),

-against-

& HAIR LOUNGE INC., & HAIR LOUNGE II
INC., MIN FEI CHEN a/k/a. Wendy Chen, and
CHEN LUNG LU a/k/a Edison Lu,

Defendants.

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**Please read this notice if you are or were
employed as hair designer or hair salon
assistant at & HAIR LOUNGE INC.,
335 East 9th Street, New York, New
York 10003 and/or at & HAIR
LOUNGE II INC., 131-133 Thompson
Street, Space #3, New York, New York
10012, from December 21, 2015, to the
present.**

18-CV-11905 (AT) (BCM)

**NOTICE OF 29 U.S.C. § 216(b)
COLLECTIVE ACTION**

**IMPORTANT NOTICE
ADVISING YOU OF YOUR
RIGHTS**

TO: All hair designers and hair salon assistants, employed on or after December 21, 2015, by any of the following companies or individuals ("Defendants"):

- (1) & HAIR LOUNGE INC., 335 East 9th Street, New York, New York 10003; or**
- (2) & HAIR LOUNGE II INC., 131-133 Thompson Street, Space #3, New York, New York 10012; or**
- (3) MIN FEI CHEN a/k/a Wendy Chen or CHEN LUNG LU a/k/a Edison Lu.**

The purpose of this Notice is to advise you of this lawsuit, and to further advise you of certain rights you may have with respect to this lawsuit.

1. Plaintiff **DONG YUAN** alleges that he worked for Defendants as a hair salon assistant at & HAIR LOUNGE INC. from August 1, 2016, to August 31, 2017, and as a hair salon assistant and a hair designer at & HAIR LOUNGE II INC. from April 20, 2018, to October 31, 2018.
2. Plaintiff **XUANHAO XU** alleges that he worked for Defendants as a hair salon assistant at & HAIR LOUNGE II INC. from May 1, 2018, to August 3, 2018, and from September 20, 2018, to October 31, 2018; and also worked for Defendants as a hair salon assistant at & HAIR LOUNGE INC. from August 5, 2018, to September 15, 2018.
3. Plaintiffs **DONG YUAN** and **XUANHAO XU** have brought this action on behalf of themselves and all current and former hair designers and hair salon assistants who have worked for Defendants at any time on or after December 21, 2015.

The lawsuit seeks monetary damages under the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201, *et seq.*, for allegedly unpaid minimum wages and overtime wages. The lawsuit also seeks damages under the New York Labor Law.

THIS NOTICE advises you of your right to participate in this lawsuit as a plaintiff if you worked for Defendants as a hair designer or hair salon assistant at any time on or after December 21, 2015, to the present and: (i) were not paid at least the minimum wage for all hours worked, or (ii) were not paid overtime for all hours worked over 40. The purpose of this Notice is to determine the identity of those persons who wish to be involved in this case. Your right to participate in this suit may depend upon a later decision by the Court that you are eligible to join this action as a plaintiff.

No determination has been made that you are owed any amount of money. The Court is not endorsing the merits of this lawsuit or advising you to participate in this lawsuit. You are under no obligation to respond to this notice.

Federal law prohibits Defendants from retaliating against you or discriminating against you if you wish to join this lawsuit.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT

ASK TO BE INCLUDED	If you wish to be included, you must ask to be included by following the instructions in section 9 below and completing the form at the end of this Notice.
DO NOTHING	By doing nothing, you will not be included in the portion of the lawsuit relating to claims under the Fair Labor Standards Act.

Your options are explained in this Notice. To ask to be included in this lawsuit, you must act before **[60 days from mailing of Notice.]**

01. Why did I get this notice?

You are getting this Notice because Defendants' records show that you work or worked for Defendants as a hair designer or hair salon assistant at some time from December 21, 2015, through the present.

02. What is this lawsuit about?

This lawsuit is about whether the Defendants properly paid their employees in accordance with Federal and New York State law. The portion of the lawsuit brought under the FLSA alleges that Defendants (i) failed to pay employees the full minimum wage for all hour worked; and (ii) failed to pay overtime for all hours worked over 40 in a week.

Defendants deny these allegations.

03. What damages does the lawsuit seek under the FLSA?

The portion of the lawsuit brought under the FLSA seeks to recover unpaid minimum wages, overtime pay, and "liquidated damages," which doubles the amount of wages owed. The portion brought under the New York Labor Law also seeks to recover "spread of hours pay," for days on which employees worked more than 10 hours, and certain statutory penalties that apply when an employer fails to provide its employees with written notices and statements accurately reflecting their compensation. The lawsuit also seeks recovery of costs and attorneys' fees.

04. What happens if I join the lawsuit?

If you join the lawsuit, you will become a party plaintiff and will be bound by any ruling, settlement or judgment, whether favorable or unfavorable. (If you do not join this action, you are free to initiate a separate lawsuit on your own. But you will not share in any judgment or settlement won in this action.)

While this lawsuit is pending, as part of the discovery process, you may be asked to provide documents or information relating to your employment with Defendants, which may include responding to written questions or answering questions in person under oath, either before or at trial. For this reason, you should preserve all documents relating to the Defendants

currently in your possession. You also may be asked to sit for a deposition scheduled at your convenience and/or asked to testify at a trial in the Southern District of New York Courthouse.

05. Can Defendants and/or my current employer retaliate or fire me if I join the lawsuit?

No. It is a violation of Federal law for Defendants to fire, discipline, or in any manner discriminate or retaliate against you for taking part in this case.

06. Can I participate in this lawsuit, even though, due to my immigration status, I did not work or am not working for Defendants legally?

Yes. Your immigration status does not affect your entitlement to recover back wages or to participate in the lawsuit.

07. Do I have a lawyer in this case?

If you choose to join this lawsuit, you may also choose to be represented by Dong Yuan's and Xuanhao Xu's counsel, who are:

TROY LAW PLLC
41-25 Kissena Boulevard, Suite 103
Flushing, NY 11355
Tel: (718) 762-1324

HUI CHEN & ASSOCIATES PLLC
136-20 38th Ave, Suite 9E
Flushing, New York 11354
Tel. (718) 463-2666

You also have a right to hire an attorney of your choice to represent you in this matter. If you are represented by other counsel, you will need to confer with them regarding their costs and fees.

08. How will the lawyers be paid?

If you choose to be represented by Plaintiffs' counsel, TROY LAW PLLC and HUI CHEN & ASSOCIATES PLLC, you will not be required to pay any out of pocket fees or expenses. Their fees and expenses will be paid out of any settlement or judgment that is recovered against Defendants. If there is no settlement or judgment, Plaintiffs' counsel will not receive any fee.

Further information about this Notice, the deadline for joining the lawsuit, the form provided, as well as answers to other questions concerning this lawsuit may be obtained by contacting attorney John Troy, Esq. at TROY LAW PLLC, telephone number (718) 762-1324. Your communications with TROY LAW PLLC are presumptively **privileged and confidential**, meaning that they will not be disclosed to anyone without your permission.

09. How do I ask the Court to include me in the case?

Enclosed is a form called the Plaintiff Consent Form. **If you choose to join the lawsuit and wish to be represented by TROY LAW PLLC and HUI CHEN & ASSOCIATES**

PLLC, it is extremely important that you read, sign, and promptly return the Plaintiff Consent Form.

An addressed and postage paid envelope is enclosed for your convenience. Should the enclosed envelope be lost or misplaced, the Plaintiff Consent form must be mailed to the following address:

TROY LAW PLLC

41-25 Kissena Boulevard, Suite 103

Flushing, NY 11355

Tel: (718) 762-1324

RE: Yuan et al v. & Hair Lounge Inc., et al., No. 18-CV-11905-AT-BCM

OR scanned and emailed to: troylaw@troypllc.com

The signed Plaintiff Consent Form must be postmarked or emailed by [60 days from mailing]. If your Plaintiff Consent Form is not postmarked or emailed by [60 days from mailing], you may not be able to participate in the FLSA portion of this case or share in a monetary settlement or judgment.

If you select an attorney other than Plaintiffs' counsel to represent you in this action, you may join this lawsuit by submitting an appropriate consent form directly to the Clerk of Court by the same deadline: [60 days from mailing]

10. Contact Information for Defendants' counsel.

Defendants counsel are:

HANG & ASSOCIATES, PLLC

136-20 38th Avenue, Suite 10G

Flushing, New York 11354

T: (718) 353-8588 | F: (718) 353-6288

11. What happens if I do nothing at all?

If you choose to not join this lawsuit, you will not be affected by any settlement or judgment rendered in this case, whether favorable or unfavorable.

12. This notice has been authorized by the Court.

This Notice and its contents have been authorized by Barbara Moses, United States Magistrate Judge, Southern District of New York. Although the Court has approved the sending of this Notice, the Court expresses no opinion on the merits of the Lawsuit.

Please do not write or call the Court about this notice.

CONSENT TO JOIN LAWSUIT

1. I consent to be a party plaintiff in the lawsuit *Yuan, et al. v. & Hair Lounge Inc., et al.*, U.S. District Court, Southern District of New York, Civil Action No. 18-cv-11905-AT-BCM, pursuant to 29 U.S.C. § 216(b), in order to seek redress for violations of the Fair Labor Standards Act.
2. I wish to: (please check one box)
() retain my own counsel

or

() retain TROY LAW PLLC and HUI CHEN & ASSOCIATES PLLC (“the Firms”) to represent me and make decisions on my behalf, to the extent permitted by law, concerning the litigation and any settlement.
3. If I chose to be represented by TROY LAW PLLC and HUI CHEN & ASSOCIATES PLLC, I understand that reasonable costs expended on my behalf will be deducted by the Firms from any settlement or judgment amount on a pro rata basis among all other plaintiffs. I understand that the Firms will petition the Court for reasonable attorneys’ fees and expenses should this case settle or a money judgment is recovered and will receive a proportion of any such settlement or judgment amount. I understand that by electing to be join this action and be represented by the Firms, I will be bound by any adjudication of this action by a court, whether favorable or unfavorable.

Name (printed) _____

Signature _____

Date _____

Street Address

City, State, Zip

Best Telephone Number(s)

Email

**Mail to: TROY LAW PLLC
41-25 KISSENA BOULEVARD, SUITE 103
FLUSHING, NY 11355
RE: Yuan et al v. & Hair Lounge Inc., et al., No. 18-CV-11905-AT-BCM**

OR scan and email to: troylaw@troypllc.com